

SECOND REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
CONFERENCE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 551

100TH GENERAL ASSEMBLY

2020

3729S.03T

AN ACT

To repeal sections 303.200, 376.782, 379.860, 383.155, 383.160, and 383.175, RSMo, and to enact in lieu thereof ten new sections relating to insurance.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 303.200, 376.782, 379.860, 383.155, 383.160, and
2 383.175, RSMo, are repealed and ten new sections enacted in lieu thereof, to be
3 known as sections 194.320, 303.200, 376.782, 376.1590, 379.402, 379.404, 379.860,
4 383.155, 383.160, and 383.175, to read as follows:

**194.320. 1. No hospital, as defined in section 197.020, physician,
2 procurement organization, as defined in section 194.210, or other
3 person shall determine the ultimate recipient of an anatomical gift
4 based upon a potential recipient's physical or mental disability or
5 congenital condition, except to the extent that the physical or mental
6 disability or congenital condition has been found by a physician,
7 following a case-by-case evaluation of the potential recipient, to be
8 medically significant to the provision of the anatomical gift. The
9 provisions of this subsection shall apply to each part of the organ
10 transplant process, including, but not limited to, the following:**

- 11 **(1) The referral from a primary care provider to a specialist;**
- 12 **(2) The referral from a specialist to a transplant center;**
- 13 **(3) The evaluation of the patient for the transplant by the
14 transplant center; and**
- 15 **(4) The consideration of the patient for placement on an official**

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

16 waiting list.

17 **2. A person with a physical or mental disability or congenital**
18 **condition shall not be required to demonstrate postoperative**
19 **independent living abilities in order to have access to a transplant if**
20 **there is evidence that the person will have sufficient, compensatory**
21 **support and assistance.**

22 **3. A court of competent jurisdiction shall accord priority on its**
23 **calendar and handle expeditiously any action brought to seek any**
24 **remedy authorized by law for purposes of enforcing compliance with**
25 **the provisions of this section.**

26 **4. This section shall not be deemed to require referrals or**
27 **recommendations for or the performance of medically inappropriate**
28 **organ transplants.**

29 **5. As used in this section, "disabilities" shall have the same**
30 **meaning as in the federal Americans with Disabilities Act of 1990, 42**
31 **U.S.C. 12101, et seq.**

303.200. 1. After consultation with insurance companies [authorized to
2 issue automobile liability policies] **having a certificate of authority to do**
3 **business** in this state **and actively writing motor vehicle liability**
4 **policies**, the director of the department of commerce and insurance, **hereinafter**
5 **referred to as the director**, shall approve a reasonable plan [or plans for the
6 equitable apportionment among such companies of applicants for such policies
7 and for personal automobile and commercial motor vehicle liability] **to provide**
8 **motor vehicle insurance policies for applicants** who are in good faith
9 entitled to but are unable to procure such policies through ordinary
10 methods. **The plan shall be known as the "Missouri Automobile**
11 **Insurance Plan", hereinafter referred to as the plan.** When any such plan
12 has been approved, all such insurance companies shall subscribe thereto and
13 participate therein. [The plan manager, on the plan's behalf, shall contract with
14 an entity or entities to accept and service applicants and policies for any company
15 that does not elect to accept and service applicants and policies. By October first
16 of each year any company that elects to accept and service applicants and policies
17 for the next calendar year for any such plan shall so notify the plan. Except as
18 provided in subsection 2 of this section, any company that does not so notify a
19 plan established for handling coverage for personal automobile risks shall be
20 excused from accepting and servicing applicants and policies for the next calendar
21 year for such plan and shall pay a fee to the plan or servicing entity for providing
22 such services. The fee shall be based on the company's market share as

23 determined by the company's writings of personal automobile risks in the
24 voluntary market.] Any applicant for [any such] a policy, any person insured
25 under [any such] the plan, and any insurance company affected may appeal to
26 the director from any ruling or decision of the [manager or committee designated
27 to operate such] plan. Any person aggrieved hereunder by any order or act of the
28 director may, within ten days after notice thereof, file a petition in the circuit
29 court of the county of Cole for a review thereof. The court shall summarily hear
30 the petition and may make any appropriate order or decree. [As used in this
31 section, the term "personal automobile" means a private passenger nonfleet
32 vehicle, motorcycle, camper and travel trailer, antique auto, amphibious auto,
33 motor home, named nonowner applicant, or a low-speed vehicle subject to chapter
34 304 which is not primarily used for business or nonprofit interests and which is
35 generally used for personal, family, or household purposes.]

36 2. [If the total premium volume for any one plan established for handling
37 coverage for personal automobile risks exceeds ten million dollars in a calendar
38 year, a company with more than five percent market share of such risks in
39 Missouri shall not be excused from accepting and servicing applicants and policies
40 of such plan under subsection 1 of this section for the next calendar year, unless
41 the governing body of the plan votes to allow any company with such market
42 share the option to be excused] **The plan shall perform its functions under
43 a plan of operation and through a governing committee as prescribed
44 in the plan of operation. Any plan of operation, prior to taking effect,
45 shall be filed and approved by the director. Any amendments to the
46 plan of operation so adopted shall also be filed with and approved by
47 the director prior to taking effect.**

48 3. **The plan of operation shall prescribe the issuance of motor
49 vehicle insurance policies by the plan, which may include the
50 administration of such policies by:**

51 (1) **A third party administrator that has a certificate of authority
52 to do business in this state;**

53 (2) **A nationally recognized management organization and
54 service provider that specializes in the administration of motor vehicle
55 insurance residual market mechanisms, subject to the approval of the
56 director; or**

57 (3) **An insurance company that has a certificate of authority to
58 do business in this state.**

59 4. **Every form of a policy, endorsement, rider, manual of
60 classifications, rules, and rates; every rating plan; and every**

61 **modification of any of them proposed to be used by the plan shall be**
62 **approved by the director prior to use.**

63 **5. Any policy of insurance issued by the plan shall conform to the**
64 **provisions of this chapter and any insurance law of this state**
65 **applicable to motor vehicle insurance policies, except for any law that**
66 **specifically exempts the plan from the purview of the law.**

67 **6. The plan shall:**

68 **(1) File annual audited financial reports for the preceding year**
69 **with the director no later than June thirtieth of each year;**

70 **(2) Be subject to examination by the director under sections**
71 **374.205 to 374.207; and**

72 **(3) Have the authority to make assessments on member**
73 **insurance companies if the funds from policyholder premiums and**
74 **other revenues are not sufficient for the sound operation of the plan.**
75 **An assessment upon a member insurance company shall be in the same**
76 **proportion to its share of the voluntary market premium for the type**
77 **of policies written under the plan. The procedures for levying**
78 **assessment shall be prescribed in the plan of operation.**

79 **7. There shall be no liability imposed on the part of, and no**
80 **cause of action of any nature shall arise against, any member insurer**
81 **or any member of the governing committee for any omission or action**
82 **taken by them in the performance of their powers and duties under this**
83 **section.**

376.782. 1. As used in this section, the term "low-dose mammography
2 screening" means the X-ray examination of the breast using equipment
3 specifically designed and dedicated for mammography, including the X-ray tube,
4 filter, compression device, **detector**, films, and cassettes, with an average
5 radiation exposure delivery of less than one rad mid-breast, with two views for
6 each breast, and any fee charged by a radiologist or other physician for reading,
7 interpreting or diagnosing based on such X-ray. As used in this section, the term
8 "low-dose mammography screening" shall also include digital mammography and
9 breast tomosynthesis. As used in this section, the term "breast tomosynthesis"
10 shall mean a radiologic procedure that involves the acquisition of projection
11 images over the stationary breast to produce cross-sectional digital
12 three-dimensional images of the breast.

13 **2. All individual and group health insurance policies providing coverage**
14 **on an expense-incurred basis, individual and group service or indemnity type**
15 **contracts issued by a nonprofit corporation, individual and group service contracts**

16 issued by a health maintenance organization, all self-insured group arrangements
17 to the extent not preempted by federal law and all managed health care delivery
18 entities of any type or description, that are delivered, issued for delivery,
19 continued or renewed on or after August 28, 1991, and providing coverage to any
20 resident of this state shall provide benefits or coverage for low-dose
21 mammography screening for any nonsymptomatic woman covered under such
22 policy or contract which meets the minimum requirements of this section. Such
23 benefits or coverage shall include at least the following:

24 (1) A baseline mammogram for women age thirty-five to thirty-nine,
25 inclusive;

26 (2) A mammogram every year for women age forty and over;

27 (3) A mammogram **every year** for any woman[, upon the
28 recommendation of a physician, where such woman, her mother or her sister has
29 a prior history of breast cancer] **deemed by a treating physician to have an**
30 **above-average risk for breast cancer in accordance with the American**
31 **College of Radiology guidelines for breast cancer screening;**

32 (4) **Any additional or supplemental imaging, such as breast**
33 **magnetic resonance imaging or ultrasound, deemed medically**
34 **necessary by a treating physician for proper breast cancer screening**
35 **or evaluation in accordance with applicable American College of**
36 **Radiology guidelines; and**

37 (5) **Ultrasound or magnetic resonance imaging services, if**
38 **determined by a treating physician to be medically necessary for the**
39 **screening or evaluation of breast cancer for any woman deemed by the**
40 **treating physician to have an above-average risk for breast cancer in**
41 **accordance with American College of Radiology guidelines for breast**
42 **cancer screening.**

43 3. Coverage and benefits [related to mammography as] required [by]
44 **under** this section shall be at least as favorable and subject to the same dollar
45 limits, deductibles, and co-payments as other radiological examinations; provided,
46 however, that on and after January 1, 2019, providers of [low-dose mammography
47 screening] **health care services specified under this section** shall be
48 reimbursed at rates accurately reflecting the resource costs specific to each
49 modality, including any increased resource cost [of breast tomosynthesis].

376.1590. 1. As used in this section, the term "insurance policy"
2 **means a policy or other contract of life insurance as such term is**
3 **defined in section 376.365, a policy of accident and sickness insurance**
4 **as such term is defined in section 376.773, or a long-term care**

5 insurance policy as such term is defined in section 376.1100.

6 2. Notwithstanding any provision of law to the contrary, a
7 person's status as a living organ donor shall not be the sole factor in
8 the offering, issuance, cancellation, price, or conditions of an insurance
9 policy, nor in the amount of coverage provided under an insurance
10 policy.

11 3. (1) The department of commerce and insurance shall provide
12 information to the public on the access of a living organ donor to
13 insurance as specified in this section. If the department of commerce
14 and insurance receives materials related to live organ donation from
15 a recognized live organ donation organization, the department of
16 commerce and insurance may make the materials available to the
17 public.

18 (2) If the department of health and senior services receives
19 materials related to live organ donation from a recognized live organ
20 donation organization, the department of health and senior services
21 may make the materials available to the public.

22 (3) The department of commerce and insurance and the
23 department of health and senior services may seek and accept gifts,
24 grants, or donations from private or public sources for the purposes of
25 this subsection.

26 4. The director of the department of commerce and insurance
27 may promulgate rules as necessary for the implementation of this
28 section. Any rule or portion of a rule, as that term is defined in section
29 536.010, that is created under the authority delegated in this section
30 shall become effective only if it complies with and is subject to all of
31 the provisions of chapter 536 and, if applicable, section 536.028. This
32 section and chapter 536 are nonseverable, and if any of the powers
33 vested with the general assembly pursuant to chapter 536 to review, to
34 delay the effective date, or to disapprove and annul a rule are
35 subsequently held unconstitutional, then the grant of rulemaking
36 authority and any rule proposed or adopted after August 28, 2020, shall
37 be invalid and void.

379.402. 1. A producer or insurer, by or through its employees,
2 affiliates, or authorized third parties, may offer or provide products or
3 services in conjunction with a policy of property and casualty
4 insurance for free, at a discount, or at market value, if such products
5 or services are intended to:

- 6 **(1) Prevent or mitigate loss to persons or property;**
7 **(2) Provide loss control;**
8 **(3) Reduce rates or claims;**
9 **(4) Educate about risk of loss to persons or property;**
10 **(5) Monitor or assess risk, identify sources of risk, or develop**
11 **strategies for eliminating or reducing risks; or**
12 **(6) Provide post-loss services.**

13 **2. A producer or insurer may offer or provide gifts, goods, or**
14 **merchandise that contain advertising or promotion of the producer or**
15 **insurer to policyholders, prospective policyholders, or members of the**
16 **public.**

17 **3. A product or service offered or provided as described under**
18 **subsection 1 or 2 of this section shall not be considered an inducement**
19 **to insurance, a rebate, or any other impermissible consideration as**
20 **those terms are used in section 379.356 and subdivision (9) of section**
21 **375.936. The offer or provision of products or services described in**
22 **subsection 1 or 2 of this section shall not be required in the contract or**
23 **policy form filings.**

24 **4. The director may promulgate rules to exempt, but not restrict,**
25 **additional categories of products or services under this section with**
26 **regard to the provisions of section 379.356 and subdivision (9) of**
27 **section 375.936 that prohibit insurers, employees of an insurer,**
28 **affiliates, insurance producers, or other third parties from giving**
29 **rebates, discounts, gifts, or other valuable consideration as an**
30 **inducement to insurance. Any rule or portion of a rule, as that term is**
31 **defined in section 536.010, that is created under the authority delegated**
32 **in this section shall become effective only if it complies with and is**
33 **subject to all of the provisions of chapter 536 and, if applicable, section**
34 **536.028. This section and chapter 536 are nonseverable, and if any of**
35 **the powers vested with the general assembly pursuant to chapter 536**
36 **to review, to delay the effective date, or to disapprove and annul a rule**
37 **are subsequently held unconstitutional, then the grant of rulemaking**
38 **authority and any rule proposed or adopted after August 28, 2020, shall**
39 **be invalid and void.**

379.404. The provisions of section 379.356 and subdivision (9) of
2 **section 375.936 that prohibit a producer or insurer from giving rebates,**
3 **discounts, gifts, or other valuable consideration as an inducement to**
4 **insurance shall not apply to commercial property and casualty**

5 **insurance. The exclusion provided under this section shall not apply**
6 **to producer commission reductions not included in insurance company**
7 **rate filings.**

379.860. 1. This program shall be administered by a governing committee
2 (hereinafter referred to as "the committee") of the facility, subject to the
3 supervision of the director, and operated by a manager appointed by the
4 committee.

5 2. The committee shall consist of thirteen members:

6 (1) Ten members shall be elected [from the following:

7 American Insurance Association, two;

8 Property Casualty Insurers Association of America, two;

9 National Association of Mutual Insurance Companies, one;

10 Missouri Insurance Coalition, one;

11 All other stock insurers, two;

12 All other nonstock insurers, two] **as prescribed in the plan of**
13 **operation;**

14 (2) Three members shall be appointed by the director from each of the
15 following:

16 Missouri insurer, one;

17 Licensed agent of an insurer, two.

18 Not more than one insurer in a group under the same management or ownership
19 shall serve on the committee at the same time.

20 3. In case of a vacancy on the governing committee the director shall
21 appoint a representative to such vacancy pending the designation or election as
22 provided in the program.

23 **4. There shall be no liability imposed on the part of and no cause**
24 **of action of any nature shall arise against any member insurer or any**
25 **member of the governing committee for any omission or action taken**
26 **in the performance of their powers and duties under sections 379.810**
27 **to 379.880.**

383.155. 1. A joint underwriting association may be created upon
2 determination by the director after a public hearing that medical malpractice
3 liability insurance is not reasonably available for health care providers in the
4 voluntary market. The association shall contain as members all companies
5 authorized to write and engaged in writing, on a direct basis, any insurance or
6 benefit, the premium for which is included under the definition of "net direct
7 premiums". Membership in the association shall be a condition of continued
8 authority to do business in this state.

9 2. A plan of operation shall be adopted to be effective concurrently with
10 the effective date of the association.

11 3. The association shall, pursuant to the provisions of sections 383.150 to
12 383.195 and the plan of operation, with respect to medical malpractice insurance,
13 have the authority on behalf of its members:

14 (1) To issue, or to cause to be issued, policies of insurance to applicants,
15 including incidental coverages and subject to limits as specified in the plan of
16 operation but not to exceed one million dollars for each claimant under one policy
17 and three million dollars for all claimants under one policy in any one policy year;

18 (2) To underwrite such insurance and to adjust and pay losses with
19 respect thereto, or to appoint a service company to perform those functions;

20 (3) To assume reinsurance from its members; and

21 (4) To cede reinsurance.

22 4. Within forty-five days following the creation of the association, the
23 directors of the association shall submit to the director for his **or her** review, a
24 proposed plan of operation, consistent with the provisions of sections 383.150 to
25 383.195.

26 5. The plan of operation shall provide for economic, fair and
27 nondiscriminatory administration and for the prompt and efficient distribution
28 of medical malpractice insurance, and shall contain other provisions including,
29 but not limited to, preliminary assessment of all members for initial expenses to
30 commence operations, establishment of necessary facilities, management of the
31 association, assessment of members to defray losses and expenses, reasonable and
32 objective underwriting standards, acceptance and cession of reinsurance,
33 appointment of a servicing company and procedures for determining amounts of
34 insurance to be provided by the association. The preliminary assessment shall
35 be an advance to be recouped under the provisions of subsection 5 of section
36 383.160.

37 **6. The composition of the board and the terms of directors of the**
38 **board shall be established by the plan of operation.**

39 7. The plan of operation shall be subject to approval by the director after
40 consultation with the members of the association, representatives of the public
41 and other affected individuals and organizations. If the director disapproves all
42 or any part of the proposed plan of operation, the directors shall within fifteen
43 days submit for review a revised plan of operation. If the directors fail to do so,
44 the director shall promulgate a plan of operation or part thereof, as the case may
45 be. The plan of operation approved or promulgated by the director shall become
46 effective and operational upon his **or her** order.

47 [7.] 8. Amendments to the plan of operation may be made by the
48 directors of the association, subject to the approval of the director or shall be
49 made at his direction.

50 **9. There shall be no liability imposed on the part of and no cause**
51 **of action of any nature shall arise against any member insurer or any**
52 **member of the board of directors for any omission or action taken by**
53 **them in the performance of their powers and duties under sections**
54 **383.150 to 383.195.**

383.160. 1. All association policies of insurance shall be written [so as to
2 apply to injury which results from acts or omissions occurring during the policy
3 period] **to provide medical malpractice insurance coverage as prescribed**
4 **by the plan of operation.** No policy form shall be used by the association
5 unless it has been filed with the director and approved or thirty days have
6 elapsed and he has not delivered to the board written disapproval of it as
7 misleading or not in the public interest. The director shall have the power to
8 disapprove any policy form previously approved if found by him after hearing to
9 be misleading or not in the public interest.

10 2. Cancellation of the association's policies shall be governed by law.

11 3. The rates, rating plans, rating rules, rating classifications and
12 territories applicable to the insurance written by the association and statistics
13 relating thereto shall be subject to the casualty rate regulation law giving due
14 consideration to the past and prospective loss and expense experience in medical
15 malpractice insurance of all of the insurers, trends in the frequency and severity
16 of losses, the investment income of the association, and such other information
17 as the director may require. All rates shall be actuarially sound and shall be
18 calculated to be self-supporting.

19 4. In the event sufficient funds are not available for the sound financial
20 operation of the association, additional funds shall be raised by making an
21 assessment on all member companies. Assessments shall be made against
22 members in the proportion that the net direct premiums for the preceding
23 calendar year of each member for each line of insurance requiring it to participate
24 in said plan bear to the net direct premiums for the preceding calendar year of
25 all members for such line of insurance; provided that, assessments made
26 pursuant to sections 383.150 to 383.195 shall not exceed in any calendar year one
27 percent of each member's net direct premiums attributable to the line or lines of
28 insurance the writing of which requires it to be a member.

29 5. All members shall deduct the amount of any assessment from past or
30 future premium taxes due but not yet paid the state.

31 6. Any funds which result from policyholder premiums and other revenues
32 received in excess of those funds required for reserves, loss payments and
33 expenses incurred and accrued at the end of any calendar year shall be paid
34 proportionately to the general fund to the extent that credit against premium tax
35 liability has been granted pursuant to subsection 5 and to members which have
36 been assessed but have not received tax credits as provided in subsection 5.

 383.175. The association shall be governed by a board of eight directors,
2 to be appointed by the director for the terms specified in the plan of operation.
3 [Two directors shall represent insurers which write bodily injury insurance in
4 Missouri and are members of the Property Casualty Insurers Association of
5 America, two shall represent insurers which write bodily injury insurance in
6 Missouri and are members of the Missouri Insurance Coalition, two shall
7 represent insurers which write bodily injury insurance in Missouri and are
8 members of the American Insurance Association, and two shall represent insurers
9 which write bodily injury insurance in Missouri but are not members of any of the
10 foregoing trade associations] **The composition of the board of directors**
11 **shall be established by the plan of operation.** The directors shall be
12 reimbursed out of the administrative funds of the association only for necessary
13 and actual expenses incurred for attending meetings of the governing board.

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